

INSTRUCTIONS

I. Specific Instructions

1. This form is to be used for filing a petition for year's support pursuant to O.C.G.A. §53-3-1 et seq. of the Revised Probate Code of 1998 if the decedent died January 1, 1998 or later, or pursuant to O.C.G.A. §53-5-1 et seq. of the Pre-1998 Probate Code if the decedent died prior to January 1, 1998.
2. If the decedent died prior to January 1, 1998, this form may be used for filing a petition for year's support for subsequent years pursuant to O.C.G.A. §53-5-4 of the Pre-1998 Probate Code. Appropriate changes should be made to indicate that the petition is for a subsequent year.
3. If the decedent died prior to January 1, 1998, the amount set apart for the family shall in no event be less than the sum of \$1,600.00 if the estate is of that value, excluding household goods and furnishings. Regardless of date of death, the amount set apart shall be an amount sufficient to maintain the standard of living that the surviving spouse and each minor child had prior to the death of the testator or intestate, for a period of 12 months, taking into consideration the following: (1) the support available to the individual for whom the property or money is to be set apart, from sources other than year's support, including but not limited to any separate estate and earning capacity of that individual; and (2) such other relevant criteria as the court deems equitable and proper, including the solvency of the estate.
4. If the decedent died January 1, 1998 or later, the petition must be filed within 24 months after decedent's death [O.C.G.A. §53-3-5(c) of the Revised Probate Code of 1998]. If the decedent died prior to January 1, 1998, the petition must be filed within 3 years after decedent's death [O.C.G.A. §53-5-2(d) of the Pre-1998 Probate Code].
5. The attached form consists of 9 pages.

II. General Instructions

General instructions applicable to all Georgia probate court standard forms are available in each probate court.

PETITION FOR YEAR'S SUPPORT

GEORGIA, _____ COUNTY

To the Judge of the Probate Court of said State and County:

The Petition of _____,
First Middle Last Name
whose mailing address is _____, shows that:

1.

The petitioner is:

____ A. The surviving spouse.
____ B. A guardian or other individual acting on behalf of the surviving spouse or minor
child (state specific relationship): _____.

2.

The decedent, _____, whose domicile was
_____ departed
(State full street address of decedent, including County of domicile)

this life on _____, 20 _____.

3.

(Select "A" or "B", and strike inapplicable words:)

____ A. There is not a Will.
____ B. There is a Will, which (has been) (will be) (will not be) offered for probate.

4.

The decedent's estate consists of real and personal property of the probable value of _____
_____ dollars.

5.

[NOTE: If any minor child is not the child of the decedent and a surviving spouse or if all named
minor children are not siblings of full blood, state the name of the other parent than the decedent.]

Petitioner shows that the following named spouse and/or minor child _____ of said decedent, to wit:

Full Name of Surviving Spouse

Name of Minor Child D.O.B.

Name of Minor Child D.O.B.

Name of Minor Child D.O.B.

Name of Minor Child D.O.B.

Name of Minor Child D.O.B.

(is) (are) entitled, before the payment of debts of the decedent, to the allowance called the Year's Support, which petitioner hereby claims for the individuals named above.

6.

A schedule of the property or a statement of the amount of money or both which the petitioner proposes to have set aside to the individuals listed in paragraph 5. above as year's support is attached hereto as "Exhibit A" and made a part hereof.

7.

(Select "A" or "B", and strike inapplicable words:)

_____ A. (There is no executor or administrator of this estate) (The petitioner is the executor or administrator of this estate) and therefore petitioner has set forth below by affidavit marked "Exhibit B" and made a part hereof a list of all interested persons, who must be mailed a copy of the notice not less than 21 days prior to the deadline shown in the notice by which objections, if any, must be filed.

_____ B. _____ (is) (are) the acting executor(s) or administrator(s) of this estate and must receive 21 days' notice by mail as described above.

8.

In addition to all taxes and tax liens on real property accrued for years prior to the year of the decedent's death, petitioner elects to have property taxes on any real property set apart as year's support divested as follows:

- _____ 1. Real property taxes accrued in the year of decedent's death;
- _____ 2. Real property taxes accrued in the year in which this petition is filed; or
- _____ 3. Real property taxes accrued in the year following the filing of this petition if this petition is filed in the year of the decedent's death.

WHEREFORE, petitioner prays:

- 1. That this petition be accepted and filed.
- 2. That notice issue and be published and served as described above.
- 3. That any interested person who is a minor or an incapacitated adult have a guardian ad litem appointed for him or her, except for any minor child of decedent on whose behalf this petition has been filed by a guardian who is not the spouse of the decedent.
- 4. That this Court grant such other and further relief as it deems proper under the circumstances.

Signature of Attorney
(or petitioner if pro se)
Address:

Telephone number:

State Bar #:

VERIFICATION

GEORGIA, _____ COUNTY

Personally appeared before me the undersigned petitioner who on oath states that the facts set forth in the foregoing petition are true.

Sworn to and subscribed before me
this _____ day of _____, 20 ____.

Petitioner

Residence Address:

Clerk of Probate Court/ Notary Public

Telephone Number:

EXHIBIT A

SCHEDULE OF PROPERTY

[NOTE: If the petitioner proposes to have set aside any interest in real property, then the complete legal description of the real property and the interest therein must appear in full on this schedule and on the proposed Certificate of Order of Year's Support (page 9).]

The following is a schedule of the property or a statement of the amount of money or both which the petitioner proposes to have set aside as year's support:

Petitioner

LIST OF INTERESTED PERSONS

Petitioner hereby certifies that petitioner has made reasonable inquiry to ascertain the names, last known addresses, and ages (if under 18) of all the interested persons with respect to the within matter. Petitioner understands that, for purposes of this affidavit, the term "interested person" refers to the above-named decedent's children, spouse, other heirs, beneficiaries, creditors, and any others having a property right or claim against the estate which may be affected by the above Year's Support proceeding. Petitioner hereby certifies that the following are all of the interested persons known to Petitioner with respect to this matter and that any incapacitated adults are identified as such:

[illegible]

Sworn to and subscribed before
me this ____ day of _____, 20 ____.

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**ACKNOWLEDGMENT OF SERVICE
AND CONSENT TO
AWARD OF YEAR'S SUPPORT**

GEORGIA, _____ COUNTY

IN RE: PETITION OF _____
 FOR YEAR'S SUPPORT

ESTATE OF _____, DECEASED

We, the undersigned, being over 18 years of age, laboring under no legal disability and being interested persons with respect to the within matter, hereby acknowledge service of the petition for year's support and notice, waive copies of same, waive all further service and notice, and hereby consent to the award of year's support as proposed in the petition.

SIGNATURE(S) OF INTERESTED PARTIES

Sworn to and subscribed before
me this ____ day of _____, 20 ____.

NOTARY/CLERK OF PROBATE COURT

Sworn to and subscribed before
me this ____ day of _____, 20 ____.

NOTARY/CLERK OF PROBATE COURT

Sworn to and subscribed before
me this ____ day of _____, 20 ____.

NOTARY/CLERK OF PROBATE COURT

Sworn to and subscribed before
me this ____ day of _____, 20 ____.

NOTARY/CLERK OF PROBATE COURT

Sworn to and subscribed before
me this ____ day of _____, 20 ____.

NOTARY/CLERK OF PROBATE COURT

Sworn to and subscribed before
me this ____ day of _____, 20 ____.

NOTARY/CLERK OF PROBATE COURT

ORDER FOR NOTICE

GEORGIA, _____ COUNTY

The Petition for Year's Support having been filed in this office, let notice issue and be published once a week for four weeks as required by law.

Further, it appearing that the estate (is) (is not) represented by a person other than the petitioner, let the clerk of this Court mail a copy of the notice in this matter to (such representative other than the petitioner) (all interested persons listed in "Exhibit B" to the petition).

Further ordered that the clerk of this Court must mail a copy of the petition within five days of its filing to the tax commissioner or tax collector of any county in this state in which real property proposed to be set apart is located.

Further Ordered, that any minors or incapacitated adults included in the petition or on Exhibit B shall have a guardian ad litem appointed for them, excepting any minor child of decedent on whose behalf this petition has been filed by a guardian not the spouse of the decedent.

DATE

JUDGE OF THE PROBATE COURT

NOTICE

GEORGIA, _____ COUNTY PROBATE COURT

The petition of _____, for a year's support from the estate of _____, deceased, for decedent's (surviving spouse) (and) (minor child _____), having been duly filed, all interested persons are hereby notified to show cause, if any they have, on or before _____, why said petition should not be granted.

All objections to the petition must be in writing, setting forth the grounds of any such objections, and must be filed on or before the time stated in the preceding sentence. If any objections are filed, a hearing will be (held on _____) (scheduled at a later date). If no objections are filed, the petition may be granted without a hearing.

WITNESS, the Hon. _____, Judge

By: _____
CLERK, PROBATE COURT OF _____ COUNTY

CERTIFICATE OF MAILING

GEORGIA, _____ COUNTY

I do hereby certify that I have this day mailed a copy of the above notice in this matter to (the personal representative of the estate) (all interested persons as listed by the petitioner on "Exhibit B" attached to the petition), in an envelope supplied by the petitioner for each person to be notified, properly addressed and with adequate postage thereon, and deposited in the United States Mail, with the return address of this Court thereon.

DATE

CLERK, PROBATE COURT

ORDER APPOINTING GUARDIAN AD LITEM

(Note: Appoint more than one guardian ad litem if necessary to represent parties who are not sui juris and who may have adverse interests).

GEORGIA, _____ COUNTY

IT IS ORDERED THAT _____ be appointed guardian ad litem for _____ and that said guardian ad litem be duly served with a copy of the foregoing petition, Notice and notice of this appointment, and upon said guardian ad litem's acceptance of same, said guardian ad litem make answer hereto. This appointment is limited to this proceeding only and it shall cease when a final order is entered on this petition.

DATE

JUDGE OF THE PROBATE COURT

ACCEPTANCE AND ANSWER OF GUARDIAN AD LITEM

GEORGIA, _____ COUNTY PROBATE COURT

Having been appointed guardian ad litem in this matter, I hereby accept my said appointment, acknowledge service and notice of the proceedings as provided by law, and for answer say:

DATE

GUARDIAN AD LITEM

ADDRESS

TELEPHONE

PROBATE COURT OF _____ COUNTY

STATE OF GEORGIA

RE: ESTATE OF

) ESTATE NO. _____
)
)

_____,
DECEASED

) RE: PETITION FOR YEAR'S SUPPORT
)

FINAL ORDER

The petition for a Year's Support for decedent's (surviving spouse) (minor child _____), setting forth the property sought to be set aside as a year's support, was filed; notice was issued, published, and served as required by law; and no objection was filed to the petition.

WHEREFORE IT IS ORDERED that the petition is granted and the schedule of property is made the award of this court, and further that property taxes on any real property awarded hereby shall be divested as elected in the petition.

DATE

JUDGE OF THE PROBATE COURT

CERTIFICATE OF ORDER OF YEAR'S SUPPORT

(Pursuant to Ga. Code Ann. §53-3-11)

GEORGIA, _____ COUNTY

DATE ORDER GRANTED: _____

GRANTOR: (NAME OF DECEDENT) _____

GRANTEE: (FULL NAME OF SURVIVING SPOUSE, AND EACH MINOR CHILD, AND DATE OF BIRTH OF EACH MINOR)

Legal Description of Real Property and Interest Therein:

Also land in _____, Count(y)(ies).

Certificate prepared by:

I do certify that the information
herein is true and correct.

SIGNATURE OF ATTORNEY

JUDGE OF THE PROBATE COURT

By: _____
CLERK, PROBATE COURT OF
_____ COUNTY

Delivered to _____ SC, _____, 20 ____